

# **SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**

## **MINUTES**

March 19, 2009

The South Carolina Commission on Disabilities and Special Needs met on Thursday, March 19, 2009, at 10:30 AM at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

### **COMMISSION**

#### **Present:**

Bobby Harrell, Chairman  
John Vaughn, Vice-Chairman  
Otis Speight, Secretary  
Edythe Dove  
John Powell  
Kelly H. Floyd

### **DDSN Administrative Staff**

Bill Barfield, Acting State Director, Administration; Kathi Lacy, Associate State Director, Policy; David Goodell, Associate State Director, Operations; Tom Waring, Director, Budgeting Systems; Linda Veldheer, Director of HASCI; Kevin Yacobi, Director of Internal Audit; Shondala Hall, Internal Audit; Deirdre Blake-Sayers, Director, Human Resources; Janet Priest, Director, Mental Retardation Division; Ann Dalton, Quality Management Division Director; David Foshee, Director, Information Technology; David Helps, IT; John King, District I Director; Rufus Britt, District II Director; Mary Ann Perry, Director, Consumer and Family Empowerment

### Guests

Ralph Courtney, Executive Director, Aiken County DSN Board; Deborah McPherson, Parent; Mary Leitner, Executive Director; Richland/Lexington DSN Board; Judy Johnson, Executive Director, Babcock Center; Joyce Davis, Director, BIASC; George Eberhardt, BIASC; Jean Place, BIASC; Katharine Bradley, Executive Director, Kershaw County DSN Board; Dean Redd, Executive Director, Colleton County DSN Board; Mildred Lilley, Parent, Kershaw; Betty-Routh Steele, Parent, Saleeby Center; Craig Stoxen, Executive Director, SC Autism Society; Kathleen Roberts, Whitten Center Parents Club (SCPADD); W. C. Houcke, Family Connection of SC; Jan Mandeville, Parent; Elizabeth Krause, Executive Director, Georgetown DSN Board; Leanne Johnston, SCHSP; Janet McCullough Whittle, Parent; Kim Cavanna, CDR, USC School of Medicine; Alex Perry, COCA; Jackie Robey, ARC of SC; Ruth Thomas, Executive Director, Darlington County DSN Board; Patricia Harrison; Mary Poole, Executive Director; York County DSN Board; Thoyd Warren, Kershaw County DSN Board; Dorothy Goods, Babcock Center; Jean Marie Place, Brain Injury Alliance; George Maky, DHHS; Anita Atwood, DHHS; Kevin Wright, USC-CDR; Bob Jones, Executive Director, Allendale/Barnwell County DSN Board

### News Release of Meeting

Mr. Bobby Harrell, Chairman, called the meeting to order. Dr. Otis Speight read a statement of announcement about the meeting that had been mailed to the appropriate media, interested persons, and posted at the Central Office in accordance with the Freedom of Information Act.

### Invocation

Mrs. Kelly Floyd gave the invocation.

### Adoption of the Agenda

On motion of Mr. John Powell, seconded by Dr. Speight and passed, the Commission approved the agenda for the meeting (Attachment A).

Approval of the Minutes of the February 19, 2009 Meeting

On motion of Dr. John Vaughn, seconded by Ms. Floyd and passed, the Commission approved the February 19, 2009 meeting minutes with a correction requested by Dr. Vaughn (Attachment B).

Report from Ad Hoc Committee on LAC Report

Dr. Vaughn provided copies of the minutes of the February 19, 2009 Ad Hoc Committee meeting and the work plan in draft form and gave a history of the LAC Audit. The Ad Hoc Committee's goal was to develop the work plan with a good-faith effort response to every recommendation. It was recommended that "draft" be removed from the work plan and only titles, not names be placed under the "Responsible Party". On motion of Dr. Vaughn, seconded by Mr. Powell and passed, the Commission approved the LAC Ad Hoc Committee's work plan to present to the Governor's Office.

Report from Staff on Implementation of LAC Recommendations

Mr. Bill Barfield reported on the implementation of the LAC recommendations concerning provider parity, licensure and background checks, and website redesign. Mr. Barfield stated the board band rates for services and the qualified provider rates for individual services are the same. Qualified providers will be allowed to bill DDSN more than once a month when the service delivery allows for such. Beginning April 1, QPL providers will be able to be paid up to 30 days for a vacant bed just like the boards. This will create parity between the qualified providers and the DSN boards.

Mr. Barfield stated Bill S.486 is being taken up by Senate Medical Affairs Committee and is expected to be voted out favorably. The law change will allow DDSN to conduct FBI background checks and will transfer DDSN licensing activities to DHEC. Discussion followed concerning the economic impact and Mr. Barfield explained funding of vacant beds at Dr. Vaughn's request.

Mr. Barfield asked Mr. David Foshee to present the agency's new website design. The dismantling of the extranet is in process. Business forms will be available under restrictive access to avoid fraud. The Budget and Control Board already had a contract with the company so there was no charge for the new website. DDSN staff did most of the work on the site. The website will be available on or before March 31, 2009.

### Consideration of Bids

Mr. Tom Waring presented information on the bids for replacing the food retherm system at Whitten Center. It was recommended the project be awarded to Aladdin Temprite of Hendersonville, Tennessee for the full contract amount of \$660,378.05. On motion of Dr. Speight, seconded by Mr. Powell and passed, the Commission approved the bid as presented (Attachment C).

Mr. Tom Waring presented information on the bids for dormitory renovations at Whitten Center. It was recommended the project be awarded to Pyramid Construction of Irmo, SC for the full contract amount of \$134,800.00. On motion of Mr. Powell, seconded by Dr. Speight and passed, the Commission approved the bid as presented (Attachment D).

### Budget Update

Mr. Barfield presented the budget passed by the House of Representatives. The Board of Economic Advisors lowered the revenue estimate which means a \$3.2 million additional reduction to the budget for DDSN. He explained how the stimulus money would affect DDSN and how some of the services can be restored if the Governor approves the stimulus package and if the Legislature budgets it back to DDSN. Mr. Barfield stated he will keep the Commission updated (Attachment E).

### Report on Disabilities Advocacy Day

Mrs. Jackie Robey, a leading volunteer on the planning committee for Disabilities Advocacy Day, reported that there was a record turnout on Disabilities Advocacy Day that was held Wednesday, March 4 at the State House. Mrs. Robey thanked a list of organizations and DSN Boards for their involvement. She stated that we are making lives better for the people we represent.

Mr. Alex Perry, a self-advocate, talked about the event. He stated consumers have a voice and it is good for the consumers to be seen and the most important thing, the consumers were heard. Mr. Perry thanked everyone for their participation and for allowing the consumers to help DDSN and other organizations to make decisions.

Report from DSN Boards

Mr. Ralph Courtney reported that yesterday's Senate Finance Subcommittee meeting went very well and that misinformation was corrected. He praised the DDSN staff and others for their input. Mr. Courtney thanked everyone for their commitment and stated he is glad the Commission cares.

Report from the Search Committee

Mr. Harrell presented Eugene A. Laurent, Ph.D. as the Search Committee's candidate for interim state director. He stated that Dr. Laurent knows state government well. On motion of Mr. Harrell, seconded by Dr. Speight, and passed, it was approved that Dr. Laurent be named DDSN Interim State Director for six months.

State Director Report/Announcements

Since Mr. Harrell lives closest to Columbia, he appointed himself to review the Comprehensive Permanent Improvement Plan (CPIP) with staff before its presentation to the Commission.

Next Meeting Date

Mr. Harrell announced the next Commission meeting would be held April 16, 2009, in Columbia, South Carolina.

On motion of Ms. Floyd, seconded by Mr. Powell and passed, the Commission meeting was adjourned.

Submitted by,

A handwritten signature in black ink that reads "Sandra Delaney". The signature is written in a cursive, flowing style.

Sandra Delaney

Approved:

Dr. Otis Speight  
Mr. Bobby Harrell

**SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**

**A G E N D A**

**South Carolina Department of Disabilities and Special Needs  
3440 Harden Street Extension  
Conference Room 251  
Columbia, South Carolina**

**March 19, 2009**

**10:30 AM**

1. Notice of Meeting Statement
2. Invocation – *Kelly H. Floyd*
3. Introduction of Guests
4. Adoption of Agenda
5. Approval of the Minutes of the February 19, 2009 Meeting
6. Report from the Ad Hoc Committee on the LAC Report
7. Report from Staff on Implementation of LAC Recommendations – *Barfield*
  - A. Provider Parity
  - B. Licensure and Background Checks – S.486
  - C. Website Redesign Preview
8. Consideration of Bids – *Waring*
  - A. Whitten Center – Replace Food Retherm System
  - B. Whitten Center – Dormitory Renovations
9. Budget Update - *Barfield*
10. Report on Disability Advocacy Day – *Jackie Robey*  
*SC Partnership of Disability Organizations*  
*Alex Perry, Self Advocate*
11. Report from DSN Boards – *Ralph Courtney*
12. Report from the Search Committee
13. Next Regular Meeting Date – April 16, 2009
14. Calendar of Upcoming Events

**PLEASE SILENCE CELL PHONES DURING THE MEETING. THANK YOU.**

**SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS**

**MINUTES**

**CORRECTED**

February 19, 2009

The South Carolina Commission on Disabilities and Special Needs met on Thursday, February 19, 2009, at 10:30 AM at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

**COMMISSION**

**Present:**

Bobby Harrell, Chairman  
John Vaughn, Vice-Chairman  
Otis Speight, Secretary  
Edythe Dove  
John Powell  
Kelly H. Floyd  
Bill Bishop

**DDSN Administrative Staff**

Dr. Stan Butkus, State Director; Bill Barfield, Deputy State Director, Administration; Kathi Lacy, Associate State Director, Policy; David Goodell, Associate State Director, Operations; Lois Park Mole, Director of Government and Community Relations; Tom Waring, Director, Budgeting Systems Linda Veldheer, Director of HASCI; Kevin Yacobi, Director of Internal Audit; Deirdre Sayers, Director, Human Resources; Janet Priest, MR/RD Director; Ann Dalton, Quality Management Division Director; Rufus Britt, District II Director

### Guests

Ralph Courtney, Executive Director, Aiken County DSN Board; Deborah McPherson, Parent; Mary Leitner, Executive Director; Richland/Lexington DSN Board; Judy Johnson, Executive Director, Babcock Center; Gloria James, Executive Director, Bamberg County DSN Board; Joyce Davis, Director, BIASC; George Eberhardt, BIASC; Jean Place, BIASC; Phil Clarkson, BIASC; Katharine Bradley, Executive Director, Kershaw County DSN Board; Dean Redd, Executive Director, Colleton County DSN Board; Brent Parker, Executive Director, Greenville County DSN Board; Fred Lynn, Whitten Center; Donna Winchell, Parent; Suzanne Johnson, Parent, Coastal Center; Richard Johnson, Parent, Coastal Center; Linda Bodiford, Parent, Coastal Center; Mildred Lilley; Parent, Kershaw; Betty-Routh Steele, Parent, Saleeby Center; Craig Stoxen, Executive Director, SC Autism Society; Kathleen Roberts, Whitten Center Parents Club (SCPADD); Andy Pope, Executive Director, Family Connection of SC

### News Release of Meeting

Mr. Bobby Harrell, Chairman, called the meeting to order. Mr. Otis Speight read a statement of announcement about the meeting that had been mailed to the appropriate media, interested persons, and posted at the Central Office in accordance with the Freedom of Information Act.

### Invocation

Mrs. Edythe Dove gave the invocation.

### Adoption of the Agenda

On motion of Mr. John Powell, seconded by Dr. Speight and passed, the Commission approved the agenda for the meeting (Attachment A).

### Approval of the Minutes of the January 22, 2009 Meeting

Mr. Harrell asked for a motion to approve the minutes of the January 22, 2009 meeting. On motion of Mr. John Powell, seconded by Dr. Speight and passed, the Commission approved the minutes of the January 22, 2009 meeting.



Approval of the Minutes of the February 4, 2009 Meeting

Dr. John Vaughn requested an amendment to the minutes by adding an additional statement to the new reading of 800-03-CP. On motion of Dr. Speight, seconded by Ms. Kelly Floyd and passed, the Commission approved the amendment to the minutes. On motion of Dr. Vaughn, seconded by Ms. Floyd and passed the Commission approved the January 22, 2009 meeting minutes with the amendment of the (Attachment B).

Report from Ad Hoc Committee on LAC Report

Dr. Vaughn reported the Ad Hoc Committee met with the Senate Subcommittee on the LAC audit on February 11. The audit charter and work plan have been provided as information. He also reported that the Ad Hoc Committee would meet today at 1:30 PM with LAC staff that were involved in the audits to evaluate current status of work plan and make any changes and/or recommendations. The Ad Hoc Committee will not be able to address the items addressed by the Senate Sub-committee not listed in the LAC Review. These will be assigned to the Internal Auditor. The work plan is on target to have all items identified by March 21, 2009.

Disabilities Advocacy Day

Mrs. Jackie Robey, a leading volunteer on the planning committee for Disability Advocacy Day, gave details on the upcoming event which will be held Wednesday, March 4 at the State House. This will be the 20<sup>th</sup> year the event has been held. Mrs. Robey provided an information packet and stated the packet was mailed to various advocacy groups and other organizations. She also talked about the various activities that will be taking place. Mrs. Robey thanked everyone for supporting Disabilities Advocacy Day.

Report from DSN Boards

Mr. Ralph Courtney stated staff from the boards attended the Senate Bank and Insurance Subcommittee meeting and people were pleased with Dr. Butkus' presentation. He also reported that at the Quality Enhancement meeting, DDSN staff heard and wanted the boards' ideas of changes. Mr. Courtney said that we need to remain focused on why we are here, to serve the disabled, and do what is right for those who depend on us. Mr. Courtney thanked the Commission and invited them to visit any DSN Board.

Executive Session

On motion of Mr. Harrell and seconded by Ms. Floyd, the Commission voted to enter Executive Session to discuss a personnel matter.

On motion of Mr. Powell and seconded by Dr. Speight, the Commission voted to exit the Executive Session. It was noted that no action was taken.

State Director Report/Announcements

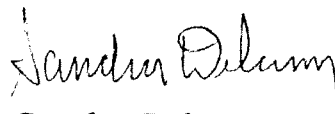
Dr. Butkus reported that the stimulus package means potential good news and asked Mr. Bill Barfield to comment on what it means for DDSN. Mr. Barfield stated Ways and Means delayed their meeting until the stimulus package passed. Department of Health and Human Services (DHHS) will receive a considerable amount of \$85 million. Ways and Means might appropriate that money. Mr. Barfield explained how eligibility would affect the stimulus package. DDSN is having conversations with DHHS. Medicaid money will come by Ways and Means and they might take the state match. Mr. Barfield stated that DDSN is trying to have them understand how this would negatively affect services of consumers. Ways and Means is looking at the stimulus money to take care of next year's deficit budget. Discussion followed.

Next Meeting Date

Mr. Harrell announced the next Commission meeting would be held March 19, 2009, in Columbia, South Carolina.

On motion of Ms. Floyd, seconded by Mr. Powell and passed, the Commission meeting was adjourned.

Submitted by,



Sandra Delaney

Approved:

Dr. Otis Speight  
Mr. Bobby Harrell

South Carolina General Assembly  
118th Session, 2009-2010

Download [This Bill](#) in Microsoft Word format

~~Indicates Matter Stricken~~

Indicates New Matter

**S. 486**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Peeler, Alexander and Rose

Document Path: l:\council\bill\ncbd\11300ac09.docx

Introduced in the Senate on February 25, 2009

Currently residing in the Senate Committee on **Medical Affairs**

Summary: Commission on Disabilities and Special Needs

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
2/25/2009	Senate	Introduced and read first time SJ-18
2/25/2009	Senate	Referred to Committee on <b>Medical Affairs</b> SJ-18
3/10/2009		Scrivener's error corrected

View the latest [legislative information](#) at the LPITS web site

**VERSIONS OF THIS BILL**

2/25/2009

3/10/2009

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

## **A BILL**

TO AMEND SECTION 44-20-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 44-20-220, RELATING TO THE PROMULGATION OF REGULATIONS BY THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION REQUIRING THE COMMISSION TO CONSULT WITH THE ADVISORY COMMITTEE OF THE DIVISION TO WHICH THE REGULATIONS APPLY; TO AMEND SECTION 44-20-230, RELATING TO THE RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION AUTHORIZING THE DIRECTOR TO APPOINT AND REMOVE EMPLOYEES OF THE DEPARTMENT; TO AMEND SECTION 44-20-240, RELATING TO THE CREATION AND RESPONSIBILITIES OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION TRANSFERRING THE RESPONSIBILITY FOR AUTISTIC SERVICES FROM THE DEPARTMENT OF MENTAL HEALTH TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO AMEND SECTION 44-20-350, RELATING TO AUTHORIZING THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS TO ESTABLISH CHARGES FOR SERVICES IN REGULATION, SO AS TO REQUIRE THESE CHARGES TO BE ESTABLISHED IN REGULATION; TO AMEND SECTION 44-20-430, RELATING TO THE DIRECTOR CARRYING OUT CERTAIN RESPONSIBILITIES SUBJECT TO POLICIES ADOPTED BY THE COMMISSION, SO AS TO PROVIDE THAT CARRYING OUT THESE RESPONSIBILITIES IS SUBJECT TO REGULATIONS PROMULGATED BY THE DEPARTMENT; TO AMEND SECTION 44-7-260, AS AMENDED, RELATING TO FACILITIES REQUIRED TO BE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND FACILITIES THAT ARE EXEMPT FROM SUCH LICENSURE, SO AS TO REQUIRE LICENSURE FOR COMMUNITY-BASED HOUSING AND DAY PROGRAMS OPERATED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS AND TO REMOVE COMMUNITY-BASED HOUSING SPONSORED, LICENSED, OR CERTIFIED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS FROM THOSE FACILITIES THAT ARE EXEMPT FROM LICENSURE; TO AMEND ARTICLE 23, CHAPTER 7, TITLE 44, RELATING TO CRIMINAL RECORDS CHECKS OF DIRECT CARE STAFF, SO AS TO FURTHER SPECIFY THE CRIMINAL RECORDS CHECKS THAT MUST BE CONDUCTED ON DIRECT CARE STAFF, TO PROVIDE THAT A DIRECT CARE ENTITY INCLUDES A DAY PROGRAM OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, TO DELETE PROVISIONS REQUIRING DIRECT CAREGIVERS TO VERIFY RESIDENCY FOR THE TWELVE MONTHS PRECEDING APPLYING FOR EMPLOYMENT, TO DELETE PROVISIONS AUTHORIZING PRIVATE BUSINESSES, ORGANIZATIONS, OR ASSOCIATIONS TO CONDUCT CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED BY THIS ARTICLE, AND TO DELETE PROVISIONS RELATING TO CERTAIN FINGERPRINT FORMS AND PROCEDURES; AND TO REPEAL SECTION 44-20-225 RELATING TO CONSUMER ADVISORY BOARDS FOR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS' MENTAL RETARDATION, AUTISM, AND HEAD AND SPINAL CORD INJURY DIVISIONS AND ARTICLE 5, CHAPTER 20, TITLE 44 RELATING TO THE LICENSURE AND REGULATION OF FACILITIES AND PROGRAMS BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Sections 44-20-210 and 44-20-220 of the 1976 Code are amended to read:

"Section 44-20-210. ~~(A)~~ There is created the South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district and one must be from the State at large to be appointed by the Governor upon the advice and consent of the Senate. They shall serve for four years and until their successors are appointed and qualify. Members of the commission are subject to removal by the Governor pursuant to the provisions of Section 1-3-240. A vacancy may be filled by the Governor for the unexpired portion of the term.

~~(B) On July 1, 1993 the Commission on Mental Retardation becomes the Commission on Disabilities and Special Needs. The commissioners continue to serve until their terms expire and their successors are appointed and qualify.~~

Section 44-20-220. The commission shall determine the policy and promulgate regulations governing the operation of the department and the employment of professional staff and personnel. The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions. The commission shall appoint and in its discretion remove a South Carolina Director of Disabilities and Special Needs who is the chief executive officer of the department. The commission may appoint advisory committees it considers necessary to assist in the effective conduct of its responsibilities. The commission may educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with mental retardation, related disabilities, head injuries, and spinal cord injuries and promote the best interest of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. The commission is authorized to promulgate regulations to carry out the provisions of this chapter and other laws related to mental retardation, related disabilities, head injuries, or spinal cord injuries. ~~In promulgating these regulations, the commission must consult with the advisory committee of the division for which the regulations shall apply."~~

SECTION 2. Sections 44-20-230 and 44-20-240 of the 1976 Code are amended to read:

"Section 44-20-230. Subject to the supervision, direction, and control of the commission, the director shall administer the policies and regulations established by the commission. ~~The director may appoint and in his discretion remove all other officers and employees of the department subject to the approval of the commission.~~

Section 44-20-240. There is created the South Carolina Department of Disabilities and Special Needs which has authority over all of the state's services and programs for the treatment and training of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The department must be comprised of a Mental Retardation Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions as may be determined by the director and approved and named by the commission. ~~Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs."~~

SECTION 3. Section 44-20-350(E) of the 1976 Code is amended to read:

"(E) The department ~~may~~ shall establish by regulation charges for other services it renders."

SECTION 4. Section 44-20-430 of the 1976 Code is amended to read:

"Section 44-20-430. The director or his designee has the final authority over applicant eligibility, determination, or services and admission order, subject to ~~policies adopted by the commission~~ regulations promulgated by the department."

SECTION 5. Section 44-7-260(A) of the 1976 Code is amended to read:

"(A) If they provide care for two or more unrelated persons, the following facilities or services may not be established, operated, or maintained in this State without first obtaining a license in the manner provided by this article and regulations promulgated by the department:

- (1) hospitals, including general and specialized hospitals;
- (2) nursing homes;
- (3) residential treatment facilities for children and adolescents;
- (4) ambulatory surgical facilities;
- (5) chiropractic inpatient facilities;
- (6) community residential care facilities;
- (7) facilities for chemically dependent or addicted persons;
- (8) end-stage renal dialysis units;
- (9) day-care facilities for adults;
- (10) any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury or other infirmity and for which the department has adopted standards of operation by regulation;
- (11) habilitation centers for the mentally retarded or persons with related conditions;
- (12) freestanding or mobile technology;
- (13) facilities wherein abortions are performed;
- (14) community-based housing operated or contracted for operation by the South Carolina Department of Disabilities and Special Needs;
- (15) day programs, as defined in Section 44-20-30(5), operated by or contracted for operation by the South Carolina Department of Disabilities and Special Needs."

SECTION 6. Section 44-7-260(B) of 1976 Code, as last amended by Act 233 of 2008, is further amended to read:

"(B) The licensing provisions of this article do not apply to:

- (1) infirmaries for the exclusive use of the student bodies of privately-owned educational institutions which maintain infirmaries;

(2) ~~community-based housing sponsored, licensed, or certified by the South Carolina Department of Disabilities and Special Needs. The Department of Disabilities and Special Needs shall provide to the Department of Health and Environmental Control the names and locations of these facilities on a continuing basis; or~~

(3) homeshare programs designated by the Department of Mental Health, provided that these programs do not serve more than two persons at each program location, the length of stay does not exceed fourteen consecutive days for one of the two persons, and the temporarily displaced person must be directly transferred from a homeshare program location. The Department of Mental Health shall provide to the Department of Health and Environmental Control the names and locations of these programs on a continuing basis."

SECTION 7. Article 23, Chapter 7, Title 44 of the 1976 Code is amended to read:

"Article 23

Criminal ~~Record~~ Records Checks of Direct Care Staff

Section 44-7-2910. (A)(1) ~~A direct care entity employing or contracting with a direct caregiver shall conduct a criminal record check as provided in this section prior to employing or contracting with the direct caregiver. To be employed by a direct care entity, a person shall first undergo a state criminal records check, supported by fingerprints by the State Law Enforcement Division and a national criminal records check, supported by fingerprints by the Federal Bureau of Investigation. The results of these criminal history background checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. A direct care entity may consider all information revealed by a criminal record check history background checks as a factor in evaluating a direct caregiver's application to be employed by or contract with the entity.~~

(2) An employment agency may not furnish employees to a direct care entity without conducting ~~a criminal record check history background checks~~ on each employee. An employee who works in multiple direct care settings must have ~~a criminal record check history background checks~~ on file at the location of the employment agency, the home office of his employer, or at the individual's primary place of employment.

(B) For purposes of this article:

(1) 'Direct care entity' means:

(a) a nursing home, as defined in Section 44-7-130;

(b) a daycare facility for adults, as defined in Section 44-7-130;

(c) a home health agency, as defined in Section 44-69-20;

(d) a community residential care facility, as defined in Section 44-7-130;

(e) a residential program or a day program operated by or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

(2) 'Direct caregiver' or 'caregiver' means:

- (a) a registered nurse, licensed practical nurse, or certified nurse assistant;
- (b) any other licensed professional employed by or contracting with a direct care entity who provides to patients or clients direct care or services and includes, but is not limited to, a physical, speech, occupational, or respiratory care therapist;
- (c) a person who is not licensed but provides physical assistance or care to a patient or client served by a direct care entity;
- (d) a person employed by or under contract with a direct care entity who works within any building housing patients or clients;
- (e) a person employed by or under contract with by a direct care entity whose duties include the possibility of patient or client contact.

For purposes of this article, a direct caregiver does not include a faculty member or student enrolled in an educational program, including clinical study in a direct care entity.

~~(C)(1) A direct caregiver applicant shall provide verification of residency for the twelve months preceding the date of the employment application. The direct care entity shall conduct a state criminal record check if the applicant has resided in South Carolina during that twelve-month period and can verify residency through:~~

- ~~(a) a driver's license or identification card issued by the State of South Carolina;~~
- ~~(b) rent, mortgage, or utility receipts in the applicant's name for a home within South Carolina;~~
- ~~(c) pay stubs in the applicant's name from a business located in South Carolina; or~~
- ~~(d) bank records in the applicant's name showing a deposit or checking account held in a South Carolina branch office of a bank.~~

~~(2) A direct care entity unable to verify South Carolina residency for a direct care applicant for the preceding twelve months shall conduct a state criminal record check on the applicant prior to employment and shall commence a federal criminal record check after employment. However, if the direct care entity can verify residency in another state for the preceding twelve months, the direct care entity may conduct only a state criminal record check in the applicant's resident state or jurisdiction where the applicant previously resided.~~

Section 44-7-2920. Criminal ~~record~~ records checks required pursuant to this article must be conducted by the State Law Enforcement Division ~~or by a private business, organization, or association which conducts background checks if that entity utilizes current criminal records obtained from the State Law Enforcement Division or the Federal Bureau of Investigation to determine any criminal record.~~ An applicant shall submit with the application one complete set of the applicant's fingerprints on forms specified or furnished by the State Law Enforcement Division. ~~Fingerprint cards submitted to the State Law Enforcement Division pursuant to this section must be used to facilitate a national criminal records check, as required by this section.~~ The criminal ~~record check~~ history background checks are not required to be repeated as long as the person remains employed by or continues to contract with a direct care entity; however, if a person is not employed by or is not under contract for one year or longer with a direct care entity, the criminal ~~record check~~ history background checks must be repeated before resuming employment or



contracting with a direct care entity. ~~The fee charged by the Federal Bureau of Investigation, if any, for the fingerprint review~~ Costs of conducting criminal history background checks must be paid by the individual direct caregiver or the direct care entity.

Section 44-7-2930. A direct care entity may furnish copies of personnel records of current or former direct caregivers to another direct care entity requesting this information. Information contained in the records may include, but is not limited to, disciplinary matters and any reasons for termination. A direct care entity releasing these records pursuant to this section is presumed to be acting in good faith and is immune from civil and criminal liability which otherwise may result by reason of releasing this information. A direct care entity receiving records pursuant to this section shall conduct its own criminal ~~record check~~ history background checks pursuant to this article.

Section 44-7-2940. The Department of Health and Environmental Control shall verify that a direct care entity is conducting criminal ~~record~~ history background checks as required in this article before the department issues a renewal license for the direct care entity. ~~The department shall act as the channeling agency for any federal criminal record checks required by this article.~~

Section 44-7-2950. An individual who violates this article, or a regulation promulgated pursuant to this article, is subject to a civil fine of one hundred dollars for the first violation and five hundred dollars for each subsequent violation. A fine imposed pursuant to this section must be paid before a direct care entity's license is renewed. Fines collected pursuant to this section must be retained by the department to help offset the costs associated with carrying out the department's responsibilities under this article."

SECTION 8. Section 44-20-225 and Article 5, Chapter 20, Title 44 of the 1976 Code are repealed.

SECTION 9. This act takes effect upon approval by the Governor.

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This web page was last updated on March 10, 2009 at 12:13 PM

**CONSIDERATION OF BID**  
**WHITTEN CENTER**  
**REPLACE FOOD RETHERM SYSTEM**  
**J16-9810-DC**

At Whitten Center, meals are prepared in a central kitchen and transported by truck to individual dormitories around campus for reheating at mealtime. The current USECO equipment is obsolete, no longer manufactured or supported with parts, and therefore can no longer be maintained by Whitten Center. Through careful committee review, SCDDSN determined that conduction technology rethermalization best serves Whitten Center's food equipment needs, and with the assistance of the Office of State Engineer, our project to replace the obsolete equipment was advertised for competitive procurement. The project scope included providing and installing new rethermalization equipment in 10 Whitten Center dormitories, including conduction retherm refrigerators, remote compressors, retherm carts, delivery carts, storage racks, wash racks, and all associated plumbing, electrical, mechanical, and miscellaneous labor and materials for a complete installation.

**ALADDIN TEMPRITE of Hendersonville, Tennessee** was the only bidder with base bid of **\$660,378.05**. In the past, **ALADDIN TEMPRITE** has dependably provided and installed food service equipment for SCDDSN at Coastal Center, as well as for SCDMH facilities and through SCDMH for Midlands Center.

The \$660,378.05 bid significantly exceeded SCDDSN Engineering Division's estimated project cost. Based on discussions and the State Engineer's recommendations, SCDDSN issued a Cancellation of Bids Prior to Award and prepared Justification for Sole Source Procurement. SCDDSN entered into negotiations with **ALADDIN TEMPRITE** to purchase the equipment and installation. The miscellaneous plumbing, mechanical, electrical, and repair contracts will be procured separately working with local South Carolina contractors.

Engineering and Planning recommends that a contract be awarded to **ALADDIN TEMPRITE of Hendersonville, Tennessee**, subject to successful negotiation of reasonable pricing not to exceed \$660,378.05.

ATTACHMENT: Cancellation of Bids Prior to Award

Justification for Sole Source Procurement

Bid Date: February 10, 2009

Date: March 11, 2009

Stanley J. Butkus, Ph.D.  
*State Director*  
Robert W. Barfield  
*Deputy State Director*  
*Administration*  
David A. Goodell  
*Associate State Director*  
*Operations*  
Kathi K. Lacy, Ph.D.  
*Associate State Director*  
*Policy*



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Ronald Forrest  
Edythe C. Dove  
Audrey Ingle Horne  
Otis D. Speight, MD, MBA, CPE

## CANCELLATION OF BIDS PRIOR TO AWARD

### WHITTEN CENTER REPLACE FOOD RETHERM SYSTEM J16-9810-DC March 3, 2009

In compliance with South Carolina Consolidated Procurement Code, section 19-445-2065, South Carolina Department of Disabilities and Special Needs determined on this date that the Invitation to Bid for the above referenced project shall be cancelled subsequent the opening the bid(s) received on February 10, 2009, but prior to award, for the following reasons:

(f) all otherwise acceptable bids received are at unreasonable prices;

And

(h) for other reasons, cancellation is clearly in the best interest of the State.

All bids shall be returned to the bidders, in accordance with this regulation.

A handwritten signature in cursive script that reads "Joan Cooper".

Joan Cooper  
SCDDSN Director of Design and Planning

#### DISTRICT I

P.O. Box 239  
Clinton, SC 29325-5328  
Phone: (864) 938-3497

Midlands Center - Phone: 803/935-7500  
Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road  
Summerville, SC 29485  
Phone: 843/832-5576

#### DISTRICT II

Coastal Center - Phone: 843/873-5750  
Pee Dee Center - Phone: 843/664-2600  
Saleeby Center - Phone: 843/332-4104

## **Justification for Sole Source Procurement**

### **J16-9810-DC-A Whitten Center - Rethermalization Equipment**

Department of Disabilities currently utilizes conduction technology for food service rethermalization at Whitten Center; however, the USECO equipment is obsolete, no longer manufactured or supported with parts, and can no longer be maintained by Whitten Center. Conduction technology served and continues to serve the agency well across the state. SCDDSN facilities at Coastal Center in Summerville, SC and Midlands Center in Columbia, SC currently use Aladdin conduction rethermalization equipment, as does S.C. Dept. of Mental Health. Conduction equipment is relatively easy to maintain, and technicians and spare parts are readily available within the state system when assistance and repairs are required.

At Whitten Center, meals are prepared in a central kitchen and transported by truck to individual dormitories around campus for reheating at mealtime. Conduction serve ware and transport equipment are well suited to loading on a truck for transport. The primary strong points are that the conduction tray has a tight fitting cover, conduction trays are insulated, and conduction trays are stackable, all contributing to easy transport. Each individual's meal is sent complete under a single cover. Hot and cold foods are conveniently sorted in the kitchen, and mistakes in hot vs. cold or wrong dish to wrong person are unlikely to occur. Conduction transport carts are simple, stable, heavy-duty open-shelf stainless steel carts. The dishes in a conduction system do not become overly hot during the retherm process, thus easy handling by staff and consumers. The conduction system offers three options for dishware - china, reusable plastic, or disposable plastic. In the event of an emergency, such as the dishwasher breaking down or hurricane relocation of large group to campus, disposable plastic dishware could be utilized and food service continuity maintained.

Convection serve ware is not insulated, and therefore requires a refrigerated truck for transport. Whitten Center does not own a refrigerated truck, which will be more costly to purchase and more costly to maintain than a standard food delivery truck. The dishes must be appropriately placed on either the hot or cold side of the tray with space around each dish for airflow. The precision of dish placement has significant potential for error. The risk of the wrong dish placed on the wrong tray or the wrong side of the tray may jeopardize consumer safety and or food quality. Convection produces hotter dishes, and since many consumers use adaptive plates, the overly hot dishes will pose difficulties for staff who must transfer the food. Staff handling the hot dishes will need to wear protective gloves. Consumers who eat directly from the convection dishes must wait until the dishes cool before serving, or risk injury. The convection system trays are not stackable, and each tray must be individually positioned on a vertical cart with shelves. These carts are more costly than conduction transport carts, and also more difficult to maneuver. Convection serve ware such as bowls and plates each require an individual cover, requiring more cost, more labor, and greater dependence on staff performance. Dishware is available in china or reusable plastic, and both must be washed and sanitized by hand. The disposable covers alone will likely add \$20,000 to the annual food service operating budget; yet covers are essential and must be carefully placed to insure the food stays in the dishes during transport.

Kitchen staff and direct care staff are already trained in using conduction retherm food preparation and meal service practices. Training to convert to a convection system will require much more time and effort than training to convert from existing USECO conduction equipment to Aladdin conduction equipment.

A committee of Whitten Center and Central Office Staff, including kitchen manager and registered dietician, concluded that conduction equipment best meets Whitten Center's food service rethermalization needs.

**CONSIDERATION OF BID**

**WHITTEN CENTER – BUILDING 102, 104, AND 110 DORMITORY RENOVATIONS**

**J16-9809-SG-C**

The project scope involves repair and renovation of Dorms 102, 104, and 110 at Whitten Center. One bathroom in each dorm will be completely renovated for full ADA accessibility, and one bathroom in each dorm will be renovated to provide future shower trolley connections should disabilities of residents dictate. The other bathrooms will include repair of ceramic tile and replacement of worn out plumbing elements and shower valves. Kitchen cabinets and countertops will be refurbished. The work at Dorm 110 also includes new shingle roof, new HVAC equipment, new sanitizer, VCT floor covering, and new aluminum awning over the patio.

Engineering and Planning recommends that a contract be awarded for the base bid amount and Alternate No. One: to **PYRAMID CONSTRUCTION of IRMO, SOUTH CAROLINA** in the amount of **\$ 134,800.00**. Alternate No. One includes aluminum patio cover for building 110 only. While no problem is anticipated, permission is requested to award to the second low bidder should the low bidder be determined non-responsive or non-responsible.

<b>Base Bid:</b>	<b>\$ 128,000.00</b>
<b>Alternate No. One:</b>	<b>\$ 6,800.00</b>
<b>Contract Amount:</b>	<b><u>\$ 134,800.00</u></b>

ATTACHMENT: BID TABULATION

FUNDS: Debt Service

**Bid Date:** March 10, 2008

Date: March 10, 2008

WHITTEN CENTER - BLDGS. 102, 104, 110 DORM RENOVATIONS  
 STATE PROJECT NO: J16-9809-SG-1 C)

CONTRACTOR NAME	BID SEC	ADDEN DUM	BASE BID 1	BASE BID 2	BASE BID 3	ALTERNATE 1	SUBCONTRACTORS		
1 GBS Construction Greenville, SC		1 2	BID WITHDRAWN				BB1 HVAC: Plumb: Elect:	BB2 HVAC: Plumb: Elect:	BB3 HVAC: Plumb: Elect:
2 Pyramid Contracting, LLC Irmo, SC		1 2	\$47,585.00	\$50,405.00	\$128,000.00	\$6,800.00	BB1 HVAC: Air Claws Plumb: Mathis Elect: West Elect.	BB2 HVAC: Air Claws Plumb: Mathis Elect: West Elect.	BB3 HVAC: Air Claws Plumb: Mathis Elect: West Elect.
LICENSE NO. G114519									
3 Preferred Construction Co. Columbia, SC		1 2	\$24,504.00	\$48,506.00	\$131,740.00	\$6,901.00	BB1 HVAC: Climate Cntrl Sys Plumb: Merritt Plumb. Elect: Wards Elect.	BB2 HVAC: Climate Cntrl. Sys. Plumb: Merritt Plumb. Elect: Wards Elect.	BB3 HVAC: Climate Cntrl. Sys Plumb: Merritt Plumb. Elect: Wards Elect.
LICENSE NO. G102428									
4 W.E. Baker & Son, Inc. Whitmore, SC		1 2	\$34,300.00	\$68,600.00	\$171,000.00	\$8,500.00	BB1 HVAC: Climate Cntrl Sys Plumb: Randy Plumb. Elect: Wards Elect.	BB2 HVAC: Climate Cntrl. Sys. Plumb: Randy Plumb. Elect: Wards Elect.	BB3 HVAC: Climate Cntrl. Sys Plumb: Randy Plumb. Elect: Wards Elect.
LICENSE NO.									
5 M.A.R. Construction Co. Lexington, SC		1 2	\$57,830.00	\$89,214.00	\$186,129.00	\$8,560.00	BB1 HVAC: Broom HVAC Plumb: Modern Elect: Wards Elect.	BB2 HVAC: Broom HVAC Plumb: Modern Elect: Wards Elect.	BB3 HVAC: Broom HVAC Plumb: Modern Elect: Wards Elect.
LICENSE NO.									
6 Raftery Construction Asheville, NC		1 2	NON-RESPONSIVE				BB1 HVAC: Plumb: Elect:	BB2 HVAC: Plumb: Elect:	BB3 HVAC: Plumb: Elect:
LICENSE NO.									
7 Mashburn Construction Co. Columbia, SC		1 2	\$53,493.00	\$112,080.00	\$207,522.00	\$35,711.00	BB1 HVAC: Broom HVAC Plumb: Derrick Plumb. Elect: Powell Elect.	BB2 HVAC: Broom HVAC Plumb: Derrick Plumb. Elect: Powell Elect.	BB3 HVAC: Broom HVAC Plumb: Derrick Plumb. Elect: Powell Elect.
LICENSE NO.									
8 Sherman Construction Co. Piedmont, SC		1 2	\$43,000.00	\$85,000.00	\$212,000.00	\$7,200.00	BB1 HVAC: Climate Cntrl Sys Plumb: Ready Plumb. Elect: Wards Elect.	BB2 HVAC: Climate Cntrl. Sys. Plumb: Ready Plumb. Elect: Wards Elect.	BB3 HVAC: Climate Cntrl. Sys. Plumb: Ready Plumb. Elect: Wards Elect.
LICENSE NO.									
9 C.A. Contractors, Inc. Gaffney, SC		1 2	\$50,913.00	\$99,826.00	\$226,323.00	\$7,507.00	BB1 HVAC: McNutt Plumb: Ready Plumb. Elect: Wards Elect.	BB2 HVAC: McNutt Plumb: Ready Plumb. Elect: Wards Elect.	BB3 HVAC: McNutt Plumb: Ready Plumb. Elect: Wards Elect.
LICENSE NO.									

*Joan Cooper*  
 Joan Cooper, Project Manager  
*Shirley Miller*  
 Shirley Miller, Witness

<b><u>Program Needs</u></b>		<b><u>Description</u></b>	<b>DDSN Request State Funds</b>	<b>House of Representatives</b>
1.	Annualization of Services Funded By Proviso 90.12 DHHS Funding	This request is to annualize the nonrecurring funding provided DDSN in the FY 2008-2009 Appropriations Act for ongoing services to individual consumers and families. These non-recurring dollars funded a community support waiver for 2,159 consumers who have been receiving rehabilitation services at a net cost of \$2,253,000 in State matching funds. Authorized 300 children with Autism and Asperger's Syndrome to receive the Pervasive Developmental Disorder Waiver costing \$4,500,000. An additional \$3,000,000 authorized Community Supports respite and stipends to 3,000 consumers throughout the state.	\$9,753,000	\$9,753,000
2.	Case Management - Federal Mandate	The state has been informed by the Federal Medicaid agency that there will be changes in federal rulemaking regarding case management services. These changes will result in additional activities that must be carried out by the State at additional cost and activities currently being performed for consumers that will no longer be reimbursable by Medicaid. DDSN's expectation is that the agency must be in compliance July 1, 2009, based on Federal timelines. Without these additional dollars, services will have to be reduced to 875 consumers statewide.	\$730,000	
3.	Maintenance of Effort to Cover Cost of Care	This request represents the need to provide sufficient funding as a maintenance of effort to the providers of services so that the actual cost of care can be covered. If the state's reimbursement rates do not cover the actual cost of care, eventually the local entities will have to reduce the scope and quality of care below acceptable standards, eliminate the services for which there is insufficient funding, or stop providing services. In the last two years the costs have risen with increasing cost of gasoline, oil, electricity, food, medical professionals, and other goods and services by an average of 6.98 percent. All providers are now at the point that reimbursements must be increased to cover the additional operating costs which have risen significantly.	\$2,466,500	
4.	Traumatic Brain or Spinal Cord Injury Post-acute Rehabilitation	South Carolina needs to fully fund over time the remaining cost of post-acute rehabilitation that enables people with traumatic brain or spinal cord injuries to obtain an appropriate level of specialized rehabilitation after the injury and acute hospital stay. Currently in the state, there is a serious gap in access to post-acute rehabilitation that is specialized for traumatic brain or spinal cord injuries. The estimates based on hospital discharges are that 2,254 individuals with traumatic brain or spinal cord injuries this year will be in need of specialized post-acute inpatient/outpatient rehabilitation. The total cost of care would be \$68 million; however, \$56.5 million dollars of this expense could be covered by private insurance, Medicare and other government reimbursements. This fiscal year, DDSN will have \$1,157,740 in funding for this program. The State funding needed for the balance to cover the uninsured/underinsured and Medicaid State matching funds would be \$10,346,000. Due to the amount of funding needed, DDSN is only requesting \$3,000,000 in additional funding at this time.	\$3,000,000	
5.	Community Supports in the Individual's and Family's Home	This request is to prevent unnecessary and expensive out-of-home placements by serving 950 individuals with severe disabilities with the supports necessary to maintain them in their homes. Community support services prevent the break-up of families and reduce the number of crisis situations and their resulting out-of-home placements. As of June 30, 2008, there were 1,087 consumers on the waiting list for the Mental Retardation/Related Disabilities Waiver and 243 awaiting the Head & Spinal Cord Injury Waiver for 1,330 individuals. There were also 1,048 awaiting a day support service. Funding this request may be the difference between supporting families and individuals versus replacing families and providing expensive total care.	\$2,582,000	
<b>Total Recurring Request</b>			\$18,531,500	\$9,753,000

**South Carolina Department of Disabilities and Special Needs  
Impact of Stimulus Package on Services**

2/18/2009

<u>Description of Type Service</u>	<u>Services Affected</u>	<u>Total Funds Impact</u>	<u>State \$ Impact</u>
<b>Restoration of Eligibility:</b>			
1 Attrition Slots Restored - MR/RD Waiver	91 slots	\$1,098,370	\$329,511
2 Attrition Slots Restored - HASCI Waiver	42 slots	\$1,092,000	\$327,600
3 Early Intervention Services to Children	670 slots	\$2,578,984	\$1,351,003
<b>Service not Provided due to State Fund Reductions:</b>			
1 Day/Supported Employment Capacity Reduction	530 slots	\$4,890,310	\$3,819,978
2 Residential/Day Provider Rate Adjustment	100 slots	\$6,090,699	\$1,833,210
3 PDD Waiver Service Reduction	190 slots	\$8,425,000	\$3,000,000
4 Waivers Capacity Reduction	106 slots	\$2,765,390	\$829,617
5 Service Coordination Reduction	5200 slots	\$7,978,168	\$3,350,831
<b>Service Reductions that are to be Implemented:</b>			
1 Reduce Ancillary Services in Waiver		\$5,000,000	\$1,500,000
2 Residential Service Reductions	175 slots	\$3,200,000	\$984,000
<b>State Services that can be Restored with One-Time Funds:</b>			
1 Post Acute Care TBI/SCI Program		\$1,650,000	\$1,650,000
2 Family Support/ Respite Service		\$550,000	\$550,000
3 Summer Service Restored		\$709,741	\$709,741
<b>Total</b>		<b>\$46,028,662</b>	<b>\$20,235,491</b>

Footnote: This plan is contingent upon the restoration of Priority 1 funding per DDSN's 2010 Budget Request, totaling \$9,753,000.